Exhibit A

U.S. Patent No. 7,933,431

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
['431 Patent Claim 1] 1. A method for controlling a handheld computing device comprising the steps of: holding said device in one hand; moving at least one finger in space in order to signal a command to said device; **electro-optically sensing** light reflected from said at least one finger using a sensing means associated with said device; determining from said sensed light the movement of said finger, and using said sensed finger movement information, controlling said device in accordance with said command.	No construction necessary.	"sensing [light reflected from said at least one finger] by measuring changes to an electric field"	
['431 Patent Claim 1] 1. A method for controlling a handheld computing device comprising the steps of: holding said device in one hand; moving at least one finger in space in order to signal a command to said device;	No construction necessary. Not governed by 35 U.S.C. § 112 ¶ 6. Alternatively, if the Court finds this term is subject to 35 U.S.C. § 112 ¶ 6: **Function:** "electro-optically sensing	This term is governed by 35 U.S.C. § 112 ¶ 6. **Function**: "electro-optically sensing light reflected from said at least one finger" **Structure**: "a camera"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
electro-optically sensing light reflected from said at least one finger using a **sensing means associated with said device**; determining from said sensed light the movement of said finger, and using said sensed finger movement information, controlling said device in accordance with said command.	light reflected from at least one finger" **Structure:** Electro-optical sensor.		
['431 Patent Claim 2] 2. A method according to claim 1, wherein at least one camera is utilized to effect said **electro-optical sensing.**	No construction necessary.	"sensing light reflected from said at least one finger by measuring changes to an electric field"	
['431 Patent Claim 4] 4. A method according to claim 1, **wherein said movement is sensed in 3 dimensions.**	No construction necessary.	"wherein said movement is determined with respect to three perpendicular axes"	
['431 Patent Claim 7] 7. Handheld computer apparatus comprising: a housing; **a camera means associated with said housing for obtaining an image using reflected light of at least one object**	[Agreed]	[Agreed]	Not governed by 35 U.S.C. § 112 ¶ 6. "a camera associated with said housing for obtaining an image using reflected light of at least one object positioned by a user operating said object"

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
positioned by a user operating said object; computer means within said housing for analyzing said image to determine information concerning a position or movement of said object; and means for controlling a function of said apparatus using said information.			
['431 Patent Claim 7] 7. Handheld computer apparatus comprising: a housing; a camera means associated with said housing for obtaining an image using reflected light of at least one object positioned by a user operating said object; **computer means within said housing for analyzing said image to determine information concerning a position or movement of said object;** and means for controlling a function of said apparatus using said information.	No construction necessary. Not governed by 35 U.S.C. § 112 ¶ 6. Alternatively, if the Court finds this term is subject to 35 U.S.C. § 112 ¶ 6: **Function:** "analyzing said image to determine information concerning a position or movement of an object" **Structure:** A computer with at least one microprocessor specially programmed programed to determine information concerning a position	This term is governed by 35 U.S.C. § 112 ¶ 6. **Function**: "analyzing said image to determine information concerning a position or movement of said object [positioned by a user operating said object]" The dependent claims currently asserted by Plaintiff further add to the function, including: (1) wherein said object is a finger (Claim 8) **Structure**: "A computer programmed to (1) scan the pixel elements in a matrix array on which said	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
	or movement of said object.	image is formed, and then calculate the centroid location "x,y" of a target on the object using the moment method disclosed in U.S. Patent No. 4,219,847 to Pinkney, as disclosed at 4:48-62; (2) add or subtract said image from prior images and identify movement blur, as disclosed at 6:64-7:14, 7:22-29; (3) obtain a time variant intensity change in said image from the detected output voltage from the signal conditioning of the camera means or by subtracting images and observing the difference due to such variation, as disclosed at 8:25-38; or (4) detect a change in color reflected from a diffractive, refractive, or interference based element on said object that reflects different colors during movement, as disclosed at 8:60-9:14."	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
['431 Patent Claim 7] 7. Handheld computer apparatus comprising: a housing; a camera means associated with said housing for obtaining an image using reflected light of at least one object positioned by a user operating said object; computer means within said housing for analyzing said image to determine information concerning a position or movement of said object; and **means for controlling a function of said apparatus using said information.**	This term is governed by 35 U.S.C. § 112 ¶ 6. **Function:** "controlling a function of said apparatus using said information" **Structure:** a control system associated with a camera	This term is governed by 35 U.S.C. § 112 ¶ 6. **Function**: "controlling a function of said [handheld computer] apparatus using said information [concerning a position or movement of said object positioned by a user operating said object]" The dependent claims currently asserted by Plaintiff further add to the function, including: (1) wherein said object is a finger (Claim 8) **Structure**: Indefinite	
['431 Patent Claim 9] 9. Apparatus according to claim 7, further including a **display function which is controlled.**	No construction necessary. Not governed by 35 U.S.C. § 112 ¶ 6.	This term is governed by 35 U.S.C. § 112 ¶ 6. **Function**: "controlling a display function" **Structure**: "a computer programmed to (1) move a slider on the display as disclosed at 13:54-67, (2) turn	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
		a knob on the display as disclosed at 13:63-14:9, or (3) throw a switch on the display as disclosed at 13:63-13:67"	
['431 Patent Claim 11] 11. Apparatus according to claim 7, further including **means for transmitting information.**	This term is governed by 35 U.S.C. § 112 ¶ 6. **Function:** "transmitting information" **Structure:** A transmitter.	This term is governed by 35 U.S.C. § 112 ¶ 6 **Function**: "transmitting information" **Structure**: "cellular transmitter"	
['431 Patent Claim 12] 12. Apparatus according to claim 7, further including **a light source for illuminating said object.**	No construction necessary.	"a light source designed to transmit light directly onto said object"	
['431 Patent Claim 19] 19. A method according to claim 14, **wherein said information is obtained in 3 dimensions.**	No construction necessary.	"wherein said information is obtained with respect to three perpendicular axes"	

U.S. Patent No. 8,194,924

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
['924 Patent Claim 1] 1. A handheld device comprising: a housing; a computer within the housing; a first camera **oriented to view** a user of the handheld device and having a first camera output; and a second camera oriented to view an object other than the user of the device and having a second camera output, wherein the first and second cameras include non-overlapping fields of view, and wherein the computer is adapted to perform a control function of the handheld device based on at least one of the first camera output and the second camera output.	No construction necessary.	"having a field of view encompassing"	
['924 Patent Claim 1] 1. A handheld device comprising: a housing; a computer within the housing;	No construction necessary.	Indefinite under *IPXL Holdings, LLC v. Amazon.com, Inc.*, 430 F.3d 1377 (Fed. Cir. 2005).	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
a first camera **oriented to view a user** of the handheld device and having a first camera output; and a second camera oriented to view an object other than the user of the device and having a second camera output, wherein the first and second cameras include non-overlapping fields of view, and wherein the computer is adapted to perform a control function of the handheld device based on at least one of the first camera output and the second camera output.			
['924 Patent Claim 1] 1. A handheld device comprising: a housing; a computer within the housing; a first camera oriented to view a user of the handheld device and having a first camera output; and a second camera **oriented to view an object other than the user** of the device and having a second camera output, wherein the first and second cameras	No construction necessary.	Indefinite under *IPXL Holdings, LLC v. Amazon.com, Inc.*, 430 F.3d 1377 (Fed. Cir. 2005).	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
include non-overlapping fields of view, and wherein the computer is adapted to perform a control function of the handheld device based on at least one of the first camera output and the second camera output.			
['924 Patent Claims 1, 6-8, 10, 12, 14] 1. A handheld device comprising: a housing; **a computer within the housing;** a first camera oriented to view a user of the handheld device and having a first camera output; and a second camera oriented to view an object other than the user of the device and having a second camera output, wherein the first and second cameras include non-overlapping fields of view, and **wherein the computer is adapted to perform a control function of the handheld device based on at least one of the first camera output and the second camera output.**	No construction necessary. Not governed by 35 U.S.C. § 112 ¶ 6.	Governed by 35 U.S.C. § 112 ¶ 6. **Function**: "perform a control function of the handheld device based on at least one of the first camera output and the second camera output" The dependent claims currently asserted by Plaintiff add additional functions, including: (1) "determine a gesture based on at least one of the first camera output and the second camera output" (Claim 6); (2) "determine a facial expression based on at least one of the first camera output and the second camera output" (Claim 7); (3) "determine at least one of the position and the	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
6. The handheld device of claim 1 wherein the computer is operable to determine a gesture based on at least one of the first camera output and the second camera output. 7. The handheld device of claim 1 wherein the computer is operable to determine a facial expression based on at least one of the first camera output and the second camera output. 8. The handheld device of claim 1 wherein the computer is adapted to determine at least one of the position and the orientation of the object based on the second camera output. 10. The handheld device of claim 1 wherein the computer is adapted to recognize the object based on the second camera output. 12. The handheld device of claim 1 wherein the computer is adapted to determine a reference frame of the object. 14. The handheld device of claim 1 wherein the computer is adapted to transmit information over an internet connection.		orientation of the object based on the second camera output" (Claim 8); (4) "recognize the object based on the second camera output" (Claim 10); (5) "determine a reference frame of the object" (Claim 12) (6) "transmit information over an internet connection" (Claim 14) **Structure**: Indefinite	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
['924 Patent Claims 1, 3-5, 8, 10, 12, 14] 1. A handheld device comprising: a housing; a computer within the housing; a first camera oriented to view a user of the handheld device and having a first camera output; and a second camera oriented to view an object other than the user of the device and having a second camera output, wherein the first and second cameras include non-overlapping fields of view, and wherein the computer is **adapted to** perform a control function of the handheld device based on at least one of the first camera output and the second camera output. 3. The handheld device of claim 1 wherein the first camera is **adapted to** acquire an image of at least a portion of the user. 4. The handheld device of claim 1 wherein the second camera is **adapted to** acquire an image of the object.	No construction necessary.	computer: "programmed to" first and second cameras: "designed to"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
5. The handheld device of claim 1 wherein the second camera is **adapted to** acquire a video of the object. 8. The handheld device of claim 1 wherein the computer is **adapted to** determine at least one of the position and the orientation of the object based on the second camera output. 10. The handheld device of claim 1 wherein the computer is **adapted to** recognize the object based on the second camera output. 12. The handheld device of claim 1 wherein the computer is **adapted to** determine a reference frame of the object. 14. The handheld device of claim 1 wherein the computer is **adapted to** transmit information over an internet connection.			
['924 Patent Claims 6, 9] 6. The handheld device of claim 1 wherein the computer is operable to determine a **gesture** based on at least one of the first camera output and the second camera output.	No construction necessary.	"a sequence of positions that conveys a meaning"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
9. The handheld device of claim 6 wherein the **gesture** is performed by a person other than the user of the handheld device.			
['924 Patent Claim 9] 9. The handheld device of claim 6 **wherein the gesture is performed by a person other than the user of the handheld device.**	No construction necessary.	Indefinite under *IPXL Holdings, LLC v. Amazon.com, Inc.*, 430 F.3d 1377 (Fed. Cir. 2005).	

U.S. Patent No. 8,553,079

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
['079 Patent Claims 1, 4-5, 11, 18-21, 24-25] 1. A computer implemented method comprising: providing a light source adapted to direct illumination through a work volume above the light source; providing a camera oriented to observe a **gesture** performed in the work volume, the camera being fixed relative to the light source; and determining, using the camera, the **gesture** performed in the work volume and illuminated by the light source. 4. The method according to claim 1 wherein detecting a **gesture** includes analyzing sequential images of the camera. 5. The method according to claim 1 wherein the detected **gesture** includes at least one of a pinch **gesture**, a pointing **gesture**, and a grip **gesture**. 11. A computer apparatus comprising:	No construction necessary.	"a sequence of positions that conveys a meaning"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
a light source adapted to illuminate a human body part within a work volume generally above the light source; a camera in fixed relation relative to the light source and oriented to observe a gesture performed by the human body part in the work volume; and a processor adapted to determine the **gesture** performed in the work volume and illuminated by the light source based on the camera output. 18. The computer apparatus of claim 11 wherein the determined **gesture** includes a pinch gesture. 19. The computer apparatus of claim 11 wherein the determined gesture includes a pointing **gesture**. 20. The computer apparatus of claim 11 wherein the determined **gesture** includes a grip gesture. 21. A computer implemented method comprising: providing a camera oriented to observe a **gesture** performed in a work volume above the camera;			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
providing a light source in fixed relation relative to the camera and adapted to direct illumination through the work volume; and detecting, using the camera, a **gesture** performed by at least one of a user's fingers and a user's hand in the work volume. 24. The method according to claim 21 wherein detecting a **gesture** includes analyzing sequential images of the camera. 25. The method according to claim 21 wherein the detected **gesture** includes at least one of a pinch **gesture**, a pointing **gesture**, and a grip **gesture**.			
['079 Patent Claims 1-3, 9-11, 14-15, 21-23, 30] 1. A computer implemented method comprising: providing a **light source adapted to direct illumination through a work volume above the light source**; providing a camera oriented to observe a gesture performed in the work volume, the camera	No construction necessary.	"a light source designed to transmit light directly through a work volume above the component" "a light source designed to transmit light directly onto a human body part within a work volume generally above the component"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
being fixed relative to the light source; and determining, using the camera, the gesture performed in the work volume and illuminated by the light source. 2. The method according to claim 1 wherein the light source includes a light emitting diode. 3. The method according to claim 1 wherein the light source includes a plurality of light emitting diodes. 9. The method according to claim 1 wherein the camera and the light source are positioned in fixed relation relative to a keypad. 10. The method according to claim 9 the camera, the light source and the keypad form part of a laptop computer. 11. A computer apparatus comprising: a **light source adapted to illuminate a human body part within a work volume generally above the light source**; a camera in fixed relation relative to the light source and oriented to observe a gesture performed by the		"a light source in fixed relation relative to the camera and designed to transmit light directly through the work volume"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
human body part in the work volume; and a processor adapted to determine the gesture performed in the work volume and illuminated by the light source based on the camera output. 14. The computer apparatus of claim 11 wherein the light source includes a light emitting diode. 15. The computer apparatus of claim 11 wherein the light source includes a plurality of light emitting diodes. 21. A computer implemented method comprising: providing a camera oriented to observe a gesture performed in a work volume above the camera; providing a **light source in fixed relation relative to the camera and adapted to direct illumination through the work volume**; and detecting, using the camera, a gesture performed by at least one of a user's fingers and a user's hand in the work volume.			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
22. The method according to claim 21 wherein the light source includes a light emitting diode. 23. The method according to claim 21 wherein the light source includes a plurality of light emitting diodes. 30. The method according to claim 21 wherein the camera and the light source are positioned in fixed relation relative to a keypad.			
['079 Patent Claim 11] 11. A computer apparatus comprising: a light source adapted to illuminate a human body part within a work volume generally above the light source; a camera in fixed relation relative to the light source and oriented to observe a gesture performed by the human body part in the work volume; and **a processor adapted to determine the gesture performed in the work volume and illuminated by the light source based on the camera output.**	No construction necessary. Not governed by 35 U.S.C. § 112 ¶ 6.	Governed by 35 U.S.C. § 112 ¶ 6. **Function**: "determine the gesture performed in the work volume and illuminated by the light source based on the camera output" The dependent claims currently asserted by Plaintiff further add to the function, including: (1) determining a pointing gesture (Claim 19) **Structure**: Indefinite	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
['079 Patent Claim 1, 11, 21] 1. A computer implemented method comprising: providing a light source **adapted to** direct illumination through a work volume above the light source; providing a camera oriented to observe a gesture performed in the work volume, the camera being fixed relative to the light source; and determining, using the camera, the gesture performed in the work volume and illuminated by the light source. 11. A computer apparatus comprising: a light source **adapted to** illuminate a human body part within a work volume generally above the light source; a camera in fixed relation relative to the light source and oriented to observe a gesture performed by the human body part in the work volume; and a processor **adapted to** determine the gesture	No construction necessary.	light source: "designed to" processor: "programmed to"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
performed in the work volume and illuminated by the light source based on the camera output. 21. A computer implemented method comprising: providing a camera oriented to observe a gesture performed in a work volume above the camera; providing a light source in fixed relation relative to the camera and **adapted to** direct illumination through the work volume; and detecting, using the camera, a gesture performed by at least one of a user's fingers and a user's hand in the work volume.			
['079 Patent Claims 8, 28] 8. The method according to claim 1 further including determining the **three-dimensional position** of a point on a user. 28. The method according to claim 21 further including determining the **three-dimensional position** of a point on at least one of the user's hand and the user's fingers.	No construction necessary.	"a position defined with respect to three perpendicular axes (xyz)"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
['079 Patent Claims 1, 6-7, 11-12, 21] 1. A computer implemented method comprising: providing a light source adapted to direct illumination through a **work volume above the light source**; providing a camera oriented to observe a gesture performed in the work volume, the camera being fixed relative to the light source; and determining, using the camera, the gesture performed in the work volume and illuminated by the light source. 6. The method according to claim 1 further including determining the pointing direction of a finger in the work volume. 7. The method according to claim 1 further including providing a target positioned on a user that is viewable in the work volume. 11. A computer apparatus comprising: a light source adapted to illuminate a human body	No construction necessary.	"volume of space above the light source visible to the camera within which gestures are performed" "volume of space generally above the light source visible to the camera within which gestures are performed" "volume of space above the camera visible to the camera within which gestures are performed"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
part within a **work volume generally above the light source**; a camera in fixed relation relative to the light source and oriented to observe a gesture performed by the human body part in the work volume; and a processor adapted to determine the gesture performed in the work volume and illuminated by the light source based on the camera output. 12. The computer apparatus of claim 11 further including a display and a keyboard, wherein the work volume is above the keyboard and in front of the display. 21. A computer implemented method comprising: providing a camera oriented to observe a gesture performed in a **work volume above the camera**; providing a light source in fixed relation relative to the camera and adapted to direct illumination through the work volume; and detecting, using the camera, a gesture performed by at least one			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
of a user's fingers and a user's hand in the work volume.			

U.S. Patent No. 8,878,949

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
['949 Patent Claim 1] 1. A portable device comprising: a device housing including a forward facing portion, the forward facing portion of the device housing encompassing an electro-optical sensor having a field of view and including a digital camera separate from the electro-optical sensor; and **a processing unit within the device housing and operatively coupled to an output of the electro-optical sensor, wherein the processing unit is adapted to:** **determine a gesture has been performed in the electro-optical sensor field of view based on the electro-optical sensor output, and** **control the digital camera in response to the gesture performed in the electro-optical sensor field of view, wherein the gesture corresponds to an image capture command, and wherein the image capture**	No construction necessary. Not governed by 35 U.S.C. § 112 ¶ 6.	Governed by 35 U.S.C. § 112 ¶ 6. **Function**: "determine a gesture has been performed in the electro-optical sensor output, and control the digital camera in response to the gesture performed in the electro-optical sensor field of view, wherein the gesture corresponds to an image capture command, and wherein the image capture command causes the digital camera to store an image to memory" The dependent claims currently asserted by Plaintiff further add to the function, including: (1) determining a gesture that includes a hand motion (Claim 2) **Structure**: Indefinite	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
command causes the digital camera to store an image to memory.			
['949 Patent Claims 1-3, 8-10, 13-15] 1. A portable device comprising: a device housing including a forward facing portion, the forward facing portion of the device housing encompassing an electro-optical sensor having a field of view and including a digital camera separate from the electro-optical sensor; and a processing unit within the device housing and operatively coupled to an output of the electro-optical sensor, wherein the processing unit is adapted to: determine a **gesture** has been performed in the electro-optical sensor field of view based on the electro-optical sensor output, and control the digital camera in response to the **gesture** performed in the electro-optical sensor field of view, wherein the **gesture** corresponds to an image capture	No construction necessary.	"a sequence of positions that conveys a meaning"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
command, and wherein the image capture command causes the digital camera to store an image to memory. 2. The portable device of claim 1 wherein the determined **gesture** includes a hand motion. 3. The portable device of claim 1 wherein the determined **gesture** includes a pose. 8. A computer implemented method comprising: providing a portable device including a forward facing portion encompassing a digital camera and an electro-optical sensor, the electro-optical sensor having an output and defining a field of view; determining, using a processing unit, a **gesture** has been performed in the electro-optical sensor field of view based on the electro-optical sensor output, wherein the determined **gesture** corresponds to an image capture command; and capturing an image to the digital camera in response to the determined **gesture**			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
corresponding to the image capture command. 9. The method according to claim 8 wherein the determined **gesture** includes a hand motion. 10. The method according to claim 8 wherein the determined **gesture** includes a pose. 13. An image capture device comprising: a device housing including a forward facing portion, the forwarding facing portion encompassing a digital camera adapted to capture an image and having a field of view and encompassing a sensor adapted to detect a **gesture** in the digital camera field of view; and a processing unit operatively coupled to the sensor and to the digital camera, wherein the processing unit is adapted to: detect a gesture has been performed in the electro-optical sensor field of view based on an output of the electro-optical sensor, and			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
correlate the **gesture** detected by the sensor with an image capture function and subsequently capture an image using the digital camera, wherein the detected **gesture** is identified by the processing unit apart from a plurality of gestures. 14. The image capture device of claim 13 wherein the detected **gesture** includes a hand motion. 15. The image capture device of claim 13 wherein the detected **gesture** includes a pose.			
['949 Patent Claims 1, 8, 13] 1. A portable device comprising: a device housing including a **forward facing portion**, the **forward facing portion** of the device housing encompassing an electro-optical sensor having a field of view and including a digital camera separate from the electro-optical sensor; and a processing unit within the device housing and operatively coupled to an output of the electro-	No construction necessary.	Indefinite	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
optical sensor, wherein the processing unit is adapted to: determine a gesture has been performed in the electro-optical sensor field of view based on the electro-optical sensor output, and control the digital camera in response to the gesture performed in the electro-optical sensor field of view, wherein the gesture corresponds to an image capture command, and wherein the image capture command causes the digital camera to store an image to memory. 8. A computer implemented method comprising: providing a portable device including a **forward facing portion** encompassing a digital camera and an electro-optical sensor, the electro-optical sensor having an output and defining a field of view; determining, using a processing unit, a gesture has been performed in the electro-optical sensor field of view based on the electro-optical sensor			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
output, wherein the determined gesture corresponds to an image capture command; and capturing an image to the digital camera in response to the determined gesture corresponding to the image capture command. 13. An image capture device comprising: a device housing including a **forward facing portion**, the forwarding facing portion encompassing a digital camera adapted to capture an image and having a field of view and encompassing a sensor adapted to detect a gesture in the digital camera field of view; and a processing unit operatively coupled to the sensor and to the digital camera, wherein the processing unit is adapted to: detect a gesture has been performed in the electro-optical sensor field of view based on an output of the electro-optical sensor, and correlate the gesture detected by the sensor			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
with an image capture function and subsequently capture an image using the digital camera, wherein the detected gesture is identified by the processing unit apart from a plurality of gestures.			
['949 Patent Claims 1, 4, 6-8, 11-13] 1. A portable device comprising: a device housing including a forward facing portion, the forward facing portion of the device housing encompassing an **electro-optical sensor** having a field of view and including a digital camera separate from the **electro-optical sensor**; and a processing unit within the device housing and operatively coupled to an output of the **electro-optical sensor**, wherein the processing unit is adapted to: determine a gesture has been performed in the electro-optical sensor field of view based on the electro-optical sensor output, and	No construction necessary.	"a sensor that senses light by measuring changes to an electric field"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
control the digital camera in response to the gesture performed in the electro-optical sensor field of view, wherein the gesture corresponds to an image capture command, and wherein the image capture command causes the digital camera to store an image to memory. 4. The portable device of claim 1 wherein the **electro-optical sensor** is fixed in relation to the digital camera. 6. The portable device of claim 1 wherein the **electro-optical sensor** defines a resolution less than a resolution defined by the digital camera. 7. The portable device of claim 1 wherein the **electro-optical sensor** includes at least one of a CCD detector and a CMOS detector. 11. The method according to claim 8 wherein the **electro-optical sensor** includes first and second sensors in fixed relation relative to the digital camera. 12. The method according to claim 8 wherein the **electro-optical sensor** defines a			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
resolution less than a resolution defined by the digital camera 13. An image capture device comprising: a device housing including a forward facing portion, the forwarding facing portion encompassing a digital camera adapted to capture an image and having a field of view and encompassing a sensor adapted to detect a gesture in the digital camera field of view; and a processing unit operatively coupled to the sensor and to the digital camera, wherein the processing unit is adapted to: detect a gesture has been performed in the electro-optical sensor field of view based on an output of the **electro-optical sensor**, and correlate the gesture detected by the sensor with an image capture function and subsequently capture an image using the digital camera, wherein the detected gesture is identified by the			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
processing unit apart from a plurality of gestures.			
['949 Patent Claims 1, 13] 1. A portable device comprising: a device housing including a forward facing portion, the forward facing portion of the device housing encompassing an electro-optical sensor having a field of view and including a digital camera separate from the electro-optical sensor; and a processing unit within the device housing and operatively coupled to an output of the electro-optical sensor, wherein the processing unit is **adapted to**: determine a gesture has been performed in the electro-optical sensor field of view based on the electro-optical sensor output, and control the digital camera in response to the gesture performed in the electro-optical sensor field of view, wherein the gesture corresponds to an image capture command, and wherein the image	No construction necessary.	digital camera, sensor: "designed to" processor: "programmed to"	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
capture command causes the digital camera to store an image to memory. 13. An image capture device comprising: a device housing including a forward facing portion, the forwarding facing portion encompassing a digital camera adapted to capture an image and having a field of view and encompassing a sensor adapted to detect a gesture in the digital camera field of view; and a processing unit operatively coupled to the sensor and to the digital camera, wherein the processing unit is **adapted to**: detect a gesture has been performed in the electro-optical sensor field of view based on an output of the electro-optical sensor, and correlate the gesture detected by the sensor with an image capture function and subsequently capture an image using the digital camera, wherein the detected gesture is			

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
identified by the processing unit apart from a plurality of gestures.			
['949 Patent Claims 5, 16] 5. The portable device of claim 1 further including a **forward facing light source**. 16. The image capture device of claim 13 further including a **forward facing light source**.	No construction necessary.	Indefinite	
['949 Patent Claim 8] 8. A computer implemented method comprising: providing a portable device including a forward facing portion encompassing a digital camera and an electro-optical sensor, the electro-optical sensor having an output and defining a field of view; determining, using a **processing unit**, a gesture has been performed in the electro-optical sensor field of view based on the electro-optical sensor output, wherein the determined gesture corresponds to an image capture command; and	No construction necessary. Not governed by 35 U.S.C. § 112 ¶ 6.	Governed by 35 U.S.C. § 112 ¶ 6. **Function**: "determining a gesture has been performed in the electro-optical sensor field of view based on the electro-optical sensor output, wherein the determined gesture corresponds to an image capture command" The dependent claims currently asserted by Plaintiff further add to the function, including: (1) determining a gesture that includes	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
capturing an image to the digital camera in response to the determined gesture corresponding to the image capture command.		a hand motion (Claim 9) **Structure**: Indefinite	
['949 Patent Claim 13] 13. An image capture device comprising: a device housing including a forward facing portion, the forwarding facing portion encompassing a digital camera adapted to capture an image and having a field of view and encompassing a sensor adapted to detect a gesture in the digital camera field of view; and a processing unit operatively coupled to the sensor and to the digital camera, wherein the processing unit is adapted to: detect a gesture has been performed in the electro-optical sensor field of view based on an output of the electro-optical sensor, and correlate the gesture detected by the sensor with an image capture function and subsequently capture an image using the digital	No construction necessary.	Indefinite, including for lack of antecedent basis	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
camera, wherein the **detected gesture is identified by the processing unit apart from a plurality of gestures**.			
['949 Patent Claims 13] 13. An image capture device comprising: a device housing including a forward facing portion, the forwarding facing portion encompassing a digital camera adapted to capture an image and having a field of view and encompassing a sensor adapted to detect a gesture in the digital camera field of view; and a processing unit operatively coupled to the sensor and to the digital camera, wherein the processing unit is adapted to: detect a gesture has been performed in **the electro-optical sensor field of view** based on an output of **the electro-optical sensor**, and correlate the gesture detected by the sensor with an image capture function and	No construction necessary.	Indefinite for lack of antecedent basis	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
subsequently capture an image using the digital camera, wherein the detected gesture is identified by the processing unit apart from a plurality of gestures.			
['949 Patent Claim 13] 13. An image capture device comprising: a device housing including a forward facing portion, the forwarding facing portion encompassing a digital camera adapted to capture an image and having a field of view and encompassing a sensor adapted to detect a gesture in the digital camera field of view; and **a processing unit operatively coupled to the sensor and to the digital camera, wherein the processing unit is adapted to:** **detect a gesture has been performed in the electro-optical sensor field of view based on an output of the electro-optical sensor, and** **correlate the gesture detected by the sensor**	No construction necessary. Not governed by 35 U.S.C. § 112 ¶ 6.	Governed by 35 U.S.C. § 112 ¶ 6. **Function**: "detect a gesture has been performed in the electro-optical sensor field of view based on an output of the electro-optical sensor, and correlate the gesture detected by the sensor with an image capture function and subsequently capture an image using the digital camera, wherein the detected gesture is identified by the processing unit apart from a plurality of gestures" The dependent claims currently asserted by Plaintiff further add to the function, including: (1) determining a gesture that includes a hand motion (Claim 14)	

Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Construction
with an image capture function and subsequently capture an image using the digital camera, wherein the detected gesture is identified by the processing unit apart from a plurality of gestures.		**Structure**: Indefinite	